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			3627	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/865,470

Applicant(s)

ROSS, FREDERICK L.

Examiner

Marissa Thein

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 24 May 2005.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-39 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-39 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Continued Examination Under 37 CFR 1.114

A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on May 24, 2005 has been entered.

Response to Amendment

Applicant's "Request for Continued Examination" filed on May 24, 2005 has been considered with the following effect.

Applicant's response by virtue of amendment to claims 21-28 has not overcome the Examiner's rejection of such claims under 35 USC 101.

Claims 1, 11, 21 and 29 are amended. Claims 1-39 remain pending in this application.

Claim Rejections - 35 USC § 101

35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

Claims 21-28 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

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As an initial matter, the United States Constitution under Art. I, §8, cl. 8 gave Congress the power to "[p]romote the progress of science and useful arts, by securing for limited times to authors and inventors the exclusive right to their respective writings and discoveries". In carrying out this power, Congress authorized under 35 U.S.C. §101 a grant of a patent to "[w]hoever invents or discovers any new and useful process, machine, manufacture, or composition or matter, or any new and useful improvement thereof." Therefore, a fundamental premise is that a patent is a statutorily created vehicle for Congress to confer an exclusive right to the inventors for "inventions" that promote the progress of "science and the useful arts". The phrase "technological arts" has been created and used by the courts to offer another view of the term "useful arts". See *In re Musgrave*, 167 USPQ (BNA) 280 (CCPA 1970). Hence, the first test of whether an invention is eligible for a patent is to determine if the invention is within the "technological arts".

Further, despite the express language of §101, several judicially created exceptions have been established to exclude certain subject matter as being patentable subject matter covered by §101. These exceptions include "laws of nature", "natural phenomena", and "abstract ideas". See *Diamond v. Diehr*, 450, U.S. 175, 185, 209 USPQ (BNA) 1, 7 (1981). However, courts have found that even if an invention incorporates abstract ideas, such as mathematical algorithms, the invention may nevertheless be statutory subject matter if the invention as a whole produces a "useful, concrete and tangible result." See *State*

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Street Bank & Trust Co. v. Signature Financial Group, Inc. 149 F.3d 1368, 1973, 47 USPQ2d (BNA) 1596 (Fed. Cir. 1998).

This "two prong" test was evident when the Court of Customs and Patent Appeals (CCPA) decided an appeal from the Board of Patent Appeals and Interferences (BPAI). See *In re Toma*, 197 USPQ (BNA) 852 (CCPA 1978). In *Toma*, the court held that the recited mathematical algorithm did not render the claim as a whole non-statutory using the Freeman-Walter-Abele test as applied to *Gottschalk v. Benson*, 409 U.S. 63, 175 USPQ (BNA) 673 (1972). Additionally, the court decided separately on the issue of the "technological arts". The court developed a "technological arts" analysis:

The "technological" or "useful" arts inquiry must focus on whether the claimed subject matter...is statutory, not on whether the product of the claimed subject matter...is statutory, not on whether the prior art which the claimed subject matter purports to replace...is statutory, and not on whether the claimed subject matter is presently perceived to be an improvement over the prior art, e.g., whether it "enhances" the operation of a machine. *In re Toma* at 857.

In *Toma*, the claimed invention was a computer program for translating a source human language (e.g., Russian) into a target human language (e.g., English). The court found that the claimed computer implemented process was within the "technological art" because the claimed invention was an operation being performed by a computer within a computer.

The decision in *State Street Bank & Trust Co. v. Signature Financial Group, Inc.* never addressed this prong of the test. In *State Street Bank & Trust*

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Co., the court found that the "mathematical exception" using the Freeman-Walter-Abele test has little, if any, application to determining the presence of statutory subject matter but rather, statutory subject matter should be based on whether the operation produces a "useful, concrete and tangible result". See *State Street Bank & Trust Co.* at 1374. Furthermore, the court found that there was no "business method exception" since the court decisions that purported to create such exceptions were based on novelty or lack of enablement issues and not on statutory grounds. Therefore, the court held that "[w]hether the patent's claims are too broad to be patentable is not to be judged under §101, but rather under §§102, 103 and 112." See *State Street Bank & Trust Co.* at 1377. Both of these analysis goes towards whether the claimed invention is non-statutory because of the presence of an abstract idea. Indeed, *State Street* abolished the Freeman-Walter-Abele test used in *Toma*. However, *State Street* never addressed the second part of the analysis, i.e., the "technological arts" test established in *Toma* because the invention in *State Street* (i.e., a computerized system for determining the year-end income, expense, and capital gain or loss for the portfolio) was already determined to be within the technological arts under the *Toma* test. This dichotomy has been recently acknowledged by the Board of Patent Appeals and Interferences (BPAI) in affirming a §101 rejection finding the claimed invention to be non-statutory. See *Ex parte Bowman*, 61 USPQ2d (BNA) 1669 (BdPatApp&Int 2001).

In the present application, claims 121-28 have no connection to the technological arts. Some of the steps do not indicate any connection to a

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computer or technology. For example claim 21, the body of the claim is a trivial use of the technology. The recitation “the using....from the local returns site....” is done by using a public communication network, however the method of “validating the return by determining that the return guidelines are met by the returned item”; and “the crediting an account..... have no structural or functional interrelationship with these method steps, which could all be performed manually by a person. Therefore, the claim is directed towards non-statutory subject matter. The other claims above are similarly rejected. To overcome this rejection the Examiner recommends the Applicant amend the claims to better clarify which of the steps are being performed within the technological arts, such as –validating the return via computer by determining... --.

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 8 and 18 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The phrase “the step of providing a returns validation code to the consumer prior the step of receiving.....” is unclear. Is the applicant referring to the pre authorization code as the returns validation code provided to the consumer prior the step of receiving? Examiner will interpret the claim as broadly as reasonable interpreted.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1-39 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 6,085,172 to Junger in view of U.S. Patent No. 6,536,659 to Hauser et al.

Regarding claim 1, Junger discloses a method of using a public communications network to manage the return of an item purchased by a consumer from a remote direct merchandiser, comprising the steps of:

- receiving a first communication at a return manager system (manufacturing side), the first communication comprising return request data from a local returns site (return side) (see at least col. 2, lines 41-46; col. 5, lines 5-35; Figures 4A-4B);
- providing a second communication from the returns manager system (manufacturing side) to the local return site (return side), the second communication comprising return validation data having at least a return validation code (return authorization number) (see at least col. 2, lines 46-52; col. 6, lines 30-36; col. 6, line 59- col. 7, line 6; col. 7, lines 54-59; col. 8, lines 18-21);

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- validating the return by matching the return validation code (return authorization code, col. 8, lines 18-21) with a pre-authorization code (customer reference number) provided by the consumer to the local returns site (col. 7, lines 56-59) and;
- wherein the first and second communication using a public communication network (see at least col. 4, lines 39-54).

However, Junger does not disclose the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom the item was purchased. Junger discloses a customer reference number (pre-authorization code) which may be entered for an internal reference to identify the return authorization (col. 7, lines 57-59).

Hauser, on the other hand, teaches the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom the item was purchased (col. 7, line 65 – col. 8, line 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom the item was purchased, as taught by Hauser, in order to provide a more efficient process of returning a merchandise (Hauser (col. 2, lines 5-6).

Furthermore, Junger does not explicitly disclose the crediting an account of consumer. Junger discloses the system provides the dollar value of the

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product that is authorized for return. The dollar value may be based on the lower of 1) gross invoice price paid by the Dealer for the product, less the value of allowances and incentives given to the Dealer, or 2) vendor's net product pricing at the time of the return. The dealer may deduct the monetary value of authorized returns from any existing or future vendor invoices. (See col. 8, lines 34-42). Furthermore in Figure 5A, the batch return authorization label provides a "return promptly for credit" information. Moreover, Junger discloses after the returned products arrive at the regional warehouse they are sorted and are shipped from the regional warehouse for credit (col. 3, lines 58-61)

Hauser, on the other hand, teaches the crediting an account of consumer for a return value of the returned item (col. 2, lines 53-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include the crediting of an account of the consumer, as taught by Hauser, in order to provide a credit for the value of the merchandise being returned at any time (Hauser col. 2, lines 54-55).

Regarding claims 2-4 and 12-14, Junger discloses Internet; public network; and a combination of Internet access and public telephone access (see at least col. 4, lines 39-54).

Regarding claims 5-6 and 15-16, Junger discloses receiving a third communication at the returns manager system, the third communication comprising: a request for general returns information from the consumer and providing a fourth communication from the returns manager system to the

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consumer, the consumer, the fourth communication comprising data representing general returns information to the consumer; and website (see at least col. 2, lines 14-17; col. 2, lines 44-58; col. 5, lines 9-15; col. 6, lines 11-20; col. 6, lines 30-46; col. 7, lines 51-62).

Regarding 7, 10, 17 and 20, Junger discloses accessing return policy data representing disposal of the item as desired by the direct merchandiser; and website (see at least col. 5, lines 9-15; col. 6, lines 58-64; col. 7, lines 7-17; col. 8, lines 42-44).

Regarding claims 8-9 and 18-19, Junger substantially discloses the claimed invention, however, Junger does not explicitly disclose a returns validation code to the consumer and the step of receiving return request data from the local returns site; and using a website. Junger discloses the manufacturer providing a list of approved returns and unapproved returns along with a return authorization number (abstract).

Hauser, on the other hand, teaches a returns validation code to the consumer and the step of receiving return request data from the local returns site; and using a website (col. 8, lines 22-35).

Therefore, it would have been obvious to a person of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include a return validation code step prior to the receiving return request data step and using a website, as taught by Hauser, in order to provide a more efficient process of returning a merchandise (Hauser (col. 2, lines 5-6)).

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Regarding claim 11, Junger discloses a method of using a public communications network to manage the return of an item purchased by a consumer from a remote direct merchandiser, comprising the steps of:

- receiving a first communication at a return manager system (manufacturing side), the first communication comprising return request data from a local shipper (see at least col. 2, lines 56-60; col. 4, lines 7-19);
- providing a second communication from the returns manager system (manufacturing side) to the local return site (return side), the second communication comprising return validation data having at least a return validation code (return authorization number) (see at least col. 2, lines 46-52; col. 6, lines 30-36; col. 6, line 59- col. 7, line 6; col. 8, lines 18-21);
- validating the return by matching the return validation code (return authorization code, col. 8, lines 18-21) with a pre-authorization code (consumer reference number) provided by the consumer (col. 7, lines 56-59) and;
- wherein the first and second communication using a public communication network (see at least col. 4, lines 39-54).

However, Junger does not disclose the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom the item was purchased. Junger discloses a customer

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reference number (pre-authorization code) which may be entered for an internal reference to identify the return authorization (col. 7, lines 57-59).

Hauser, on the other hand, teaches the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom the item was purchased (col. 7, line 65 – col. 8, line 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom the item was purchased, as taught by Hauser, in order to provide a more efficient process of returning a merchandise (Hauser (col. 2, lines 5-6).

Furthermore, Junger does not explicitly disclose the crediting an account of consumer. Junger discloses the system provides the dollar value of the product that is authorized for return. The dollar value may be based on the lower of 1) gross invoice price paid by the Dealer for the product, less the value of allowances and incentives given to the Dealer, or 2) vendor's net product pricing at the time of the return. The dealer may deduct the monetary value of authorized returns from any existing or future vendor invoices. (See col. 8, lines 34-42). Furthermore in Figure 5A, the batch return authorization label provides a "return promptly for credit" information. Moreover, Junger discloses after the returned products arrive at the regional warehouse they are sorted and are shipped from the regional warehouse for credit (col. 3, lines 58-61)

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Hauser, on the other hand, teaches the crediting an account of consumer for a return value of the returned item (col. 2, lines 53-59).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include the crediting of an account of the consumer, as taught by Hauser, in order to provide a credit for the value of the merchandise being returned at any time (Hauser col. 2, lines 54-55).

Regarding claim 21, Junger discloses a method for managing a return of an item, comprising: receiving, at a local returns cite, a returned item purchased from an off-site retailer by a consumer (col. 3, lines 29-40; col. 3, lines 44-57); accessing a returns manager system (manufacture side) that stores a return policy of the off-site retailer, the return policy comprising one or more guidelines that must be met to validate a return of the returned item (vendors specific returns policy and guidelines, col. 8, lines 42-44; requirements of a company's return policy, col. 1, lines 29-30); and validating the return by determining that the return guidelines are met by the returned item (col. 1, lines 26-29; col. 8, lines 42-44).

However, Junger does not disclose the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom the item was purchased. Junger discloses a customer reference number (pre-authorization code) which may be entered for an internal reference to identify the return authorization (col. 7, lines 57-59).

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Hauser, on the other hand, teaches the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom the item was purchased (col. 7, line 65 – col. 8, line 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser from whom who the item was purchased, as taught by Hauser, in order to provide a more efficient process of returning a merchandise (Hauser (col. 2, lines 5-6).

Furthermore, Junger does not explicitly disclose the crediting an account of consumer. Junger discloses the system provides the dollar value of the product that is authorized for return. The dollar value may be based on the lower of 1) gross invoice price paid by the Dealer for the product, less the value of allowances and incentives given to the Dealer, or 2) vendor's net product pricing at the time of the return. The dealer may deduct the monetary value of authorized returns from any existing or future vendor invoices. (See col. 8, lines 34-42). Furthermore in Figure 5A, the batch return authorization label provides a "return promptly for credit" information. Moreover, Junger discloses after the returned products arrive at the regional warehouse they are sorted and are shipped from the regional warehouse for credit (col. 3, lines 58-61)

Hauser, on the other hand, teaches the crediting an account of consumer for a return value of the returned item (col. 2, lines 53-59).

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Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include the crediting of an account of the consumer, as taught by Hauser, in order to provide a credit for the value of the merchandise being returned at any time (Hauser col. 2, lines 54-55).

Regarding claims 22-28, Junger discloses receiving the returned item at a local returns site, the local returns site off-site from the retailer (col. 3, lines 44-55); providing pre-authorization of the return to the consumer before the item is received at the local returns site (col. 7, lines 56-58); transmitting a first communication comprising return request data to the returns manager system (manufacturing side) (see at least col. 2, lines 56-60; col. 4, lines 7-19); transmitting a second communication comprising return validation data from the returns manager system (manufacturing side), the return validation data comprising a return validation code (return authorization number) (see at least col. 8, lines 18-21); a pre-authorization code provided to the returns manager system by the consumer (col. 7, lines 56-58); accessing a rules-based disposition policy associated with the off-site retailer (col. 5, lines 15-39); selecting a disposition method for the returned product based on the rules-based disposition policy associated with the retailer (see at col. 5, lines 15-39; col. 8, lines 42-44; col. 1, lines 29-30); and sending a communication from the returns system to the retailer identifying the item being returned by the consumer (6, lines 30-41; col. 6, lines 64-67; col. 7, lines 11-17).

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Regarding claim 29, Junger discloses a system for managing a return of merchandise comprising; a retailer comprising a remote direct merchandiser from which one or more items may be purchased by a consumer (col. 3, lines 29-47; col. 2, lines 14-26); a returns manager system communicatively coupled to the retailer over a public communication network (col. 3, lines 29-55; Figure 3; col. 2, lines 14-26); receive a first communication identifying at least an item of merchandise (col. 2, lines 41-49; col. 5, lines 5-35; Figures 4A-4B; col. 2, lines 14-26); identify the retailer as the remote direct merchandiser from which at least one returned item was purchased by the consumer (col. 3, lines 29-55; col. 2, lines 14-26); and send a second communication to the retailer identifying the return (col. 3, lines 29-55; col. 2, lines 14-26).

However, Junger does not disclose item of merchandise to be returned by the consumer in the future; and the item of merchandise to be returned by the consumer to provide the retailer with advance notification of the return. Junger discloses a customer reference number (pre-authorization code) which may be entered for an internal reference to identify the return authorization (col. 7, lines 57-59).

Hauser, on the other hand, teaches item of merchandise to be returned by the consumer in the future; and the item of merchandise to be returned by the consumer to provide the retailer with advance notification of the return. Junger discloses a customer reference number (pre-authorization code) may be entered for an internal reference to identify the return authorization (col. 7, lines 57-59).

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Hauser, on the other hand, teaches the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser form who the item was purchased (abstract; col. 7, line 65 – col. 8, line 4).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include the pre-authorization code obtained by the consumer and indicating prior approval of the return by a remote direct merchandiser form who the item was purchased, as taught by Hauser, in order to provide a more efficient process of returning a merchandise (Hauser (col. 2, lines 5-6).

Regarding claims 30 and 36, Junger substantially disclose the claimed invention, however, it does not disclose update an account to reflect the status of the item as return pending and credit an account of the consumer. Junger discloses the system provides the dollar value of the product that is authorized for return. The dollar value may be based on the lower of 1) gross invoice price paid by the Dealer for the product, less the value of allowances and incentives given to the Dealer, or 2) vendor's net product pricing at the time of the return. The dealer may deduct the monetary value of authorized returns from any existing or future vendor invoices. (See col. 8, lines 34-42). Furthermore in Figure 5A, the batch return authorization label provides a "return promptly for credit" information. Moreover, Junger discloses that if a request is approved, a return authorization number and update the batch header to indicate the approved status (col. 8, lines 18-21).

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Hauser, on the other hand, teaches update an account to reflect the status of the item as return pending and credit an account of the consumer (col. 2, lines 49-67).

Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention was made to modify the method of Junger, to include the update an account to reflect the status of the item as return pending and credit an account of the consumer, as taught by Hauser, in order to track the handling of the returned merchandise (Hauser col. 2, lines 66-67).

Regarding claims 31-35 and 37-39, Junger disclose the first communication is received from a local returns site communicatively coupled to the returns manager system (see at least col. 2, lines 41-46; col. 5, lines 5-35; Figures 4A-4B); the local returns site is operatively to receive the returned item from the consumer (col. 7, lines 56-58; Figure 4G); the local returns site is operable to receive from the returned item from a shipper (col. 4, lines 2-6); wherein the local returns is operable to process the returned item (col. 5, lines 5-8; col. 7, lines 18-31); receive a third communication from the local returns site, which comprises return validation data (col. 2, lines 46-52; col. 6, lines 30-36; col. 6, line 59- col. 7, line 6; col. 7, lines 54-59; col. 8, lines 18-21); transmit a fourth communication to the local returns site, which comprises return validation data having at least a return validation code (col. 2, lines 46-52; col. 6, lines 30-36; col. 6, line 59- col. 7, line 6; col. 7, lines 54-59; col. 8, lines 18-21); Internet (internet or the like); telephone network (Figure 3); and the first communication

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identifies an offer associated with the returned item (col. 1, lines 53-col. 2, line 6; col. 2, lines 3-6; col. 2, lines 14-26).

Response to Arguments

Applicant's arguments with respect to claims 1-39 have been considered but are moot in view of the new ground(s) of rejection.

Applicant remarks that "the regional warehouse of Junger is not the equivalent of Applicant's claimed local returns site. Certainly, the regional warehouse of Junger cannot be said to receive the returned item from the consumer".

The Examiner notes that the regional return center warehouse is equivalent to the claimed local returns site because Applicant has not patentable distinguished the local returns site.

Applicant remarks that "there is no disclosure in Junger,...., that regional returns facility receives information that identifies an order associated with the returned item".

The Examiner notes that Junger discloses the regional facility receives information that identifies an order associated with the returned item. Junger discloses a computer system at a product return center location, which obtains identifying information for a product, which is to be returned (col. 2, lines 42-43) and a customer returning a product with a receipt (col. 2, line 15). Furthermore, Junger discloses an electronic system for registering product transaction to facilitate compliance with return policies (col. 1, lines 58-61). Such an electronic

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registration system enables individual product identification information may be stored in a local transaction database along with additional information including at least the date of the transaction (col. 1, lines 61-67). A transaction receipt, such as a customer sales receipt which includes the individual product identification information and the date of the transaction, is created (col. 2, lines 1-3). The individual product identification information and the transaction date may be communicated to a separate location for inclusion in a general transaction database (col. 2, lines 3-6).

Such a computer system at a product return center location, which obtains identifying information for a product, which is to be returned; a customer returning a product with a receipt; electronic system for registering product transactions to facilitate compliance with return policies; and individual product identification information is stored in a local transaction database with the date of the transaction are considered the regional facility receives information that identifies an order associated with the returned item.

Applicant remarks that "there is no disclosure in Junger of the regional returns facility communicating with the consumer or vice versa".

The Examiner notes that Junger discloses the regional returns facility communicating with the consumer or vice versa. Junger discloses a computer system at a product return center location, which obtains identifying information for a product, which is to be returned (col. 2, lines 42-43) and a customer returning a product with a receipt (col. 2, line 15).

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Such a computer system at a product return center location, which obtains identifying information for a product, which is to be returned and a customer returning a product with a receipt are considered the communicating with the consumer.

Conclusion

The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

U.S. Patent Application Publication No. 2002/001977 to Schwab discloses a return merchandise system through third party locations.

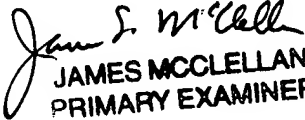
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Marissa Thein whose telephone number is 571-272-6764. The examiner can normally be reached on M-F 8:00-5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Alex Kalinowski can be reached on 571-272-6771. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

mtot
August 3, 2005


JAMES MCCLELLAN
PRIMARY EXAMINER